

ADVERSED
JUL 21 2003

Entered 12-26-02 - sb
CL 02L0931 - GWENDOLYN BURNS

CLAIM OF: JOHN D. MERLINO
MELISSA D. MERLINO
through their Attorneys
Carol V. Clark, Esq.
Peter L. Lublin, Esq.
McCalla, Raymer, Padrick
Cobb, Nichols & Clark, LLC
1544 Old Alabama Road
Roswell, Georgia 30076

03-R -1057

For property damages alleged to have been
sustained when a basement was flooded by storm
water on December 17, 2002 at 180 17th Street, NE.

THIS ADVERSED REPORT IS
APPROVED

BY:

JERRY L. DELOACH
DEPUTY CITY ATTORNEY

DEPUTY MUNICIPAL CLERK

CERTIFIED
JUL 21 2003

ADVERSE REPORT

PUBLIC SAFETY &

LEGAL ADMINISTRATION COMMITTEE

DATE:

7/15/03

CHAIR:

[Signature]
[Signature]
[Signature]
[Signature]



OFFICE OF MUNICIPAL CLERK

RHONDA DAUPHIN JOHNSON, CMC
MUNICIPAL CLERK

55 TRINITY AVENUE, S.W.
SECOND FLOOR, EAST
SUITE 2700
ATLANTA, GEORGIA 30335
(404) 330-6033
FAX (404) 658-6103

July 29, 2003

Carol V. Clark
Attorney at Law
1544 Old Alabama Road
Roswell, Georgia 30076

03-R-1057

RE: John D. Merlino & Melissa D. Merlino

Dear Attorney Clark:

I sincerely regret that your client has been adversely affected by the circumstances raised in his/her claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your client's claim at its regular meeting on July 21, 2003. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the City Attorney's Office/Claims Division at (404) 330-6400.

Yours very truly,

Rhonda Dauphin Johnson, CMC
Municipal Clerk

cc: Claims Division/Law Department

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 02L0931

Date: July 1, 2003

Claimant /Victim **JOHN D. & MELISSA D. MERLINO**

BY: (Atty) (Ins. Co.) Carol V. Clark, Esq., Peter L. Lublin, Esq., MCCALLA, RAYMER, PADRIK, COBB
NICHOLS & CLARK, LLC

Address: 1544 Old Alabama Road, Roswell, Georgia 30076

Subrogation: Claim for Property damage \$ unspecified Bodily Injury \$ _____

Date of Notice: 12/19/02 Method: Written, Proper X Improper

Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X

Date of Occurrence 12/17/02 Place: 180 17th Street, NE

Department WATERSHED MANAGEMENT Division Sewer Operations

Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: Claimants allege that they have sustained property damage from continuous storm water overflow that emanates from a storm sewer drainage pipe that runs through their property. Claimants' further contend that the City fails to repair and maintain said sewer structure. However, an investigation determined that the storm drainage pipe serves to drain storm water from the Claimants' property as well as other properties. Further evidence shows that the properties involved are owned by private individuals and the storm drainage pipe in question is a private pipe and not a City structure. Accordingly, the City has no ownership or responsibility to maintain or control the existence of the storm drainage pipe.

INVESTIGATION:

Statements: City employee _____ Claimant _____ Others _____ Written _____ Oral _____

Statements: City employees _____
Pictures _____
Diagrams _____
Reports: Police _____ Dept Report X Other _____

Traffic citations issued: City Driver _____ Claimant Driver _____

Citation disposition: City Driver _____ Claimant Driver _____

BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial _____


Improper Notice _____ More than Six Months _____ Other _____ Damages reasonable _____

City not involved X Offer rejected Compromise settlement

Repair/replacement by Ins. Co. _____ Repair/replacement by City Forces _____

Claimant Negligent _____ City Negligent _____ Joint _____ Claim Abandoned _____

Respectfully submitted,


INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay \$ Adverse X Account charged: 1A01 2J01 2P01 2H01

Claims Manager: [Signature] Concur/date 07/01/03

Committee Action: _____ Council Action _____

RCS# 4940
7/21/03
6:41 PM

Atlanta City Council

Regular Session

CONSENT I

CONSENT I PGS. 1-11, EXCEPT:03-O-1034
03-R-1110, 03-R-1137, 03-O-1116
ADOPT

YEAS: 13
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 1
ABSENT 1

Y Smith	Y Archibong	Y Moore	Y Mitchell
E Starnes	Y Fauver	NV Martin	Y Norwood
Y Young	Y Shook	Y Maddox	Y Willis
Y Winslow	Y Muller	Y Boazman	B Woolard

CONSENT I

		7/21/03 Full Council Meeting
ITEMS ADOPTED ON CONSENT	ITEMS ADVERSE ON CONSENT	ITEMS ADVERSE ON CONSENT
1. 02-O-1259 2. 03-O-0148 3. 03-O-0826 4. 03-O-1114 5. 03-O-1122 6. 03-O-0939 7. 03-O-0974 8. 03-O-1120 9. 03-O-0964 10. 03-O-1115 11. 03-O-1117 12. 03-R-0896 13. 03-R-1103 14. 03-R-1126 15. 03-R-1136 16. 03-R-1124 17. 03-R-1102 18. 03-R-1129 19. 03-R-1135 20. 03-R-1088 21. 03-R-1104 22. 03-R-1111 23. 03-R-1036 24. 03-R-1037 25. 03-R-1038	26. 03-R-1039 27. 03-R-1040 28. 03-R-1041 29. 03-R-1042 30. 03-R-1043 31. 03-R-1044 32. 03-R-1045 33. 03-R-1046 34. 03-R-1047 35. 03-R-1048 36. 03-R-1049 37. 03-R-1050 38. 03-R-1051 39. 03-R-1052 40. 03-R-1053 41. 03-R-1054 42. 03-R-1055 43. 03-R-1056 44. 03-R-1057 45. 03-R-1058 46. 03-R-1059 47. 03-R-1060 48. 03-R-1061 49. 03-R-1062 50. 03-R-1063	51. 03-R-1064 52. 03-R-1065 53. 03-R-1066 54. 03-R-1067 55. 03-R-1068 56. 03-R-1069 57. 03-R-1070 58. 03-R-1071 59. 03-R-1072 60. 03-R-1073 61. 03-R-1074

Consent I Vote: 13 Yeas; 0Nays: (See RCS #4940)

Items Removed from the Consent Agenda: 03-O-1034; 03-O-1116; 03-R-1110; 03-R-1137;